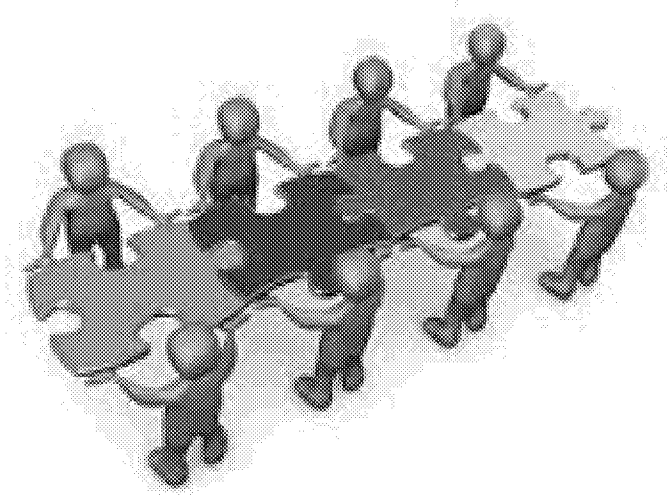


# Putting the Puzzle Together: Ag Park, Pedley Landfill, Anza Channel, Camp Anza and ROHR Industry...



“A Situation Ripe for Manipulation”



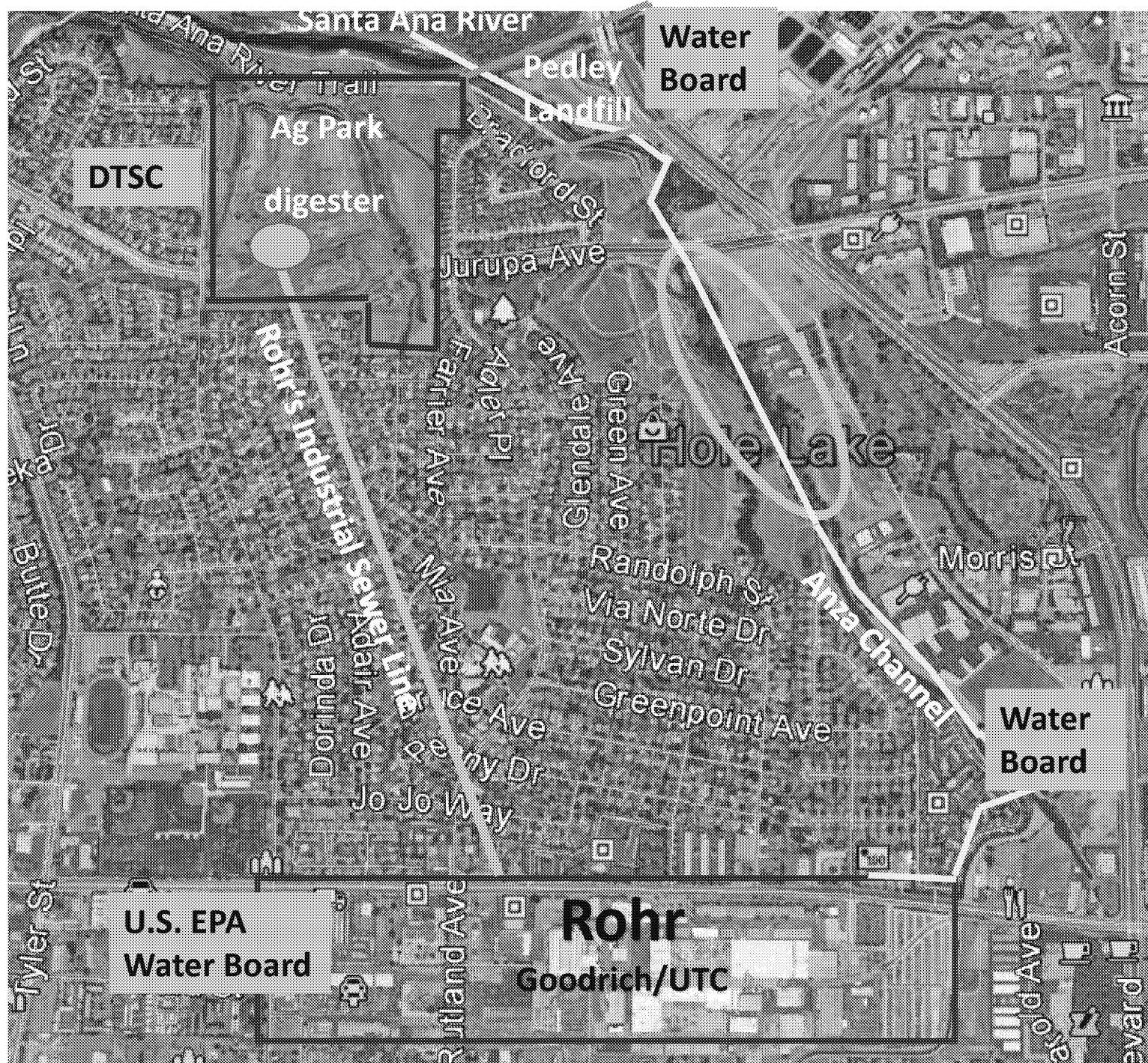












# Recommendations for DTSC

## **1. Change DTSC into Governing Board or Commission Structure**

- Provide a public forum, transparency, accountability

## **2. Internal Affairs –**

- Investigate (including criminal investigations) when DTSC staff are negligent and not doing their jobs.

## **3. Scientific Review Panel –**

- DTSC would need to appear before the Panel and defend their approach to cleanups

## **4. Set Minimal Cleanup Levels – OEHHA**

- Currently cleanup levels are determined arbitrarily by the Project Manager. If you get a good project manager you get a good cleanup level; if you get a bad project manager you're screwed.

## **5. Institute Enforceable Agreements**

- Currently the Dept. uses contracts with the polluters for oversight. Staff views the polluter as the client instead of the public. And it limits the scope of oversight of that contract.

## **6. Community Involvement – Ombudsman**

- Located within CalEPA there needs to be someone to advocate for the community that isn't caught in the internal politics of the Department.

# Recommendation 1:

- **Change DTSC into a Governing Board Structure (similar to ARB)**

- Right now there is no transparency to decisions made by DTSC.
- Every decision is made in house and out of the public view.
- Provide a public forum, transparency, accountability
- An independent Board made up of government appointees and hopefully, with two EJ seats will open the process, build more confidence in decision-making and force accountability.



# Recommendation 2:

- **Create Internal Affairs –**

- Section (maybe within CalEPA) charged with investigating actions of DTSC staff when there is an appearance of legal negligent and the appearance of unethical practices.
- Racists emails
- Declaring “no further action required” when the site clearly is not cleaned.
- Legal Definition of Negligence: “Is a failure to exercise the care that a reasonably prudent person would exercise in a like circumstance, it involves harm cause by carelessness not intentional harm”

# Recommendation 3:

- **Create a Scientific Review Panel –**

- Currently cleanup plans are developed arbitrarily. Either the polluter develops the plan and DTSC staff approve it or DTSC develops the plan. There is no set standard or vigorous debate on the clean up plans.
- This action would create a process whereby DTSC staff would need to appear before the Panel and defend their approach to cleanups (Peer Review Process).

# Recommendation 4:

## **Set Minimal Cleanup Levels – OEHHA**

- Mandate Office of Environmental Health Hazard Assessment (OEHHA) set cleanup standards using a rigorous scientific approach
- Currently cleanup levels are determined arbitrarily by the Project Manager. If you get a good project manager you get a good cleanup level; if you get a bad project manager you don't.
- For example, the cleanup standard set for Ag Park is .22 mg/kg while OEHHA's CHHSLs for PCBs in soil and soil gas is 0.089mg/kg  
DTSC is basing their standard on cancer risk ignoring that PCBs are endocrine disrupting compounds and that IARC has set PCBs as a Class I Known Carcinogen. They also calculate on current time instead of past exposures.



# Recommendation 5:

- **Institute Enforceable Agreements**

- Currently the Dept. uses contracts with the polluters for oversight. Staff views the polluter as the client/customer instead of the public. The catch word for teaching DTSC and CUPA staff is customer service vs public service. The contract legally limits the scope of performing their statutory duties.

# Recommendation 6:

- **Community Involvement – Ombudsman**

- Located within CalEPA there needs to be someone to advocate for the community that isn't caught in the internal politics of the Department.
- Advisory Committees – partnerships where discussions take place in open, public forums. Stringfellow Advisory Committee is a perfect example.
- Access to all information

# Recommendations on Ag Park – Specific Site

1. Inadequate air monitoring – not enough monitors around the site; Action Level (point at which action must be taken to stop dust- whether watering the site or shutting down all activity) is too high;
2. Inadequate testing and identification of all chemicals of concern: dioxin, dioxin TEQ, (dioxin like dioxin, furans and PCBs), furans, perchlorate, CA metals, all chemicals identified at ROHR in the soil, water and groundwater such as dioxane, TCA, TCE, PCE etc..
3. Inadequate testing to depth of soil (have only tested “shallow” - 3 feet - areas). Inadequate confirmation testing plan.
4. Inadequate and protective clean up levels at the site; without consulting OEHHA. DTSC is using .22mg/kg while OEHHA has set 0.089mg/kg clean up level for PCBs in soil.
5. Inadequate requirements for public disclosure.
6. No testing of residents’ yards and homes. DTSC is “modeling” to see where they should test! We believe they should test homes adjacent to the site – period.
7. Legal Negligence: DTSC issued a Certificate of Completion, CLRRRA Agreement, on April 1<sup>st</sup>, 2014 – Site was allegedly cleaned up at .22 mg/kg under public/political pressure DTSC with assistance from USEPA retested the site and determined that close to half of the property was still contaminated over the clean up level.



# Ag Park Site Recommendation 1:

Inadequate air monitoring – not enough monitors around the site; Action Level (point at which action must be taken to stop dust- whether watering the site or shutting down all activity) is too high;

AIR MONITORING DEMANDS

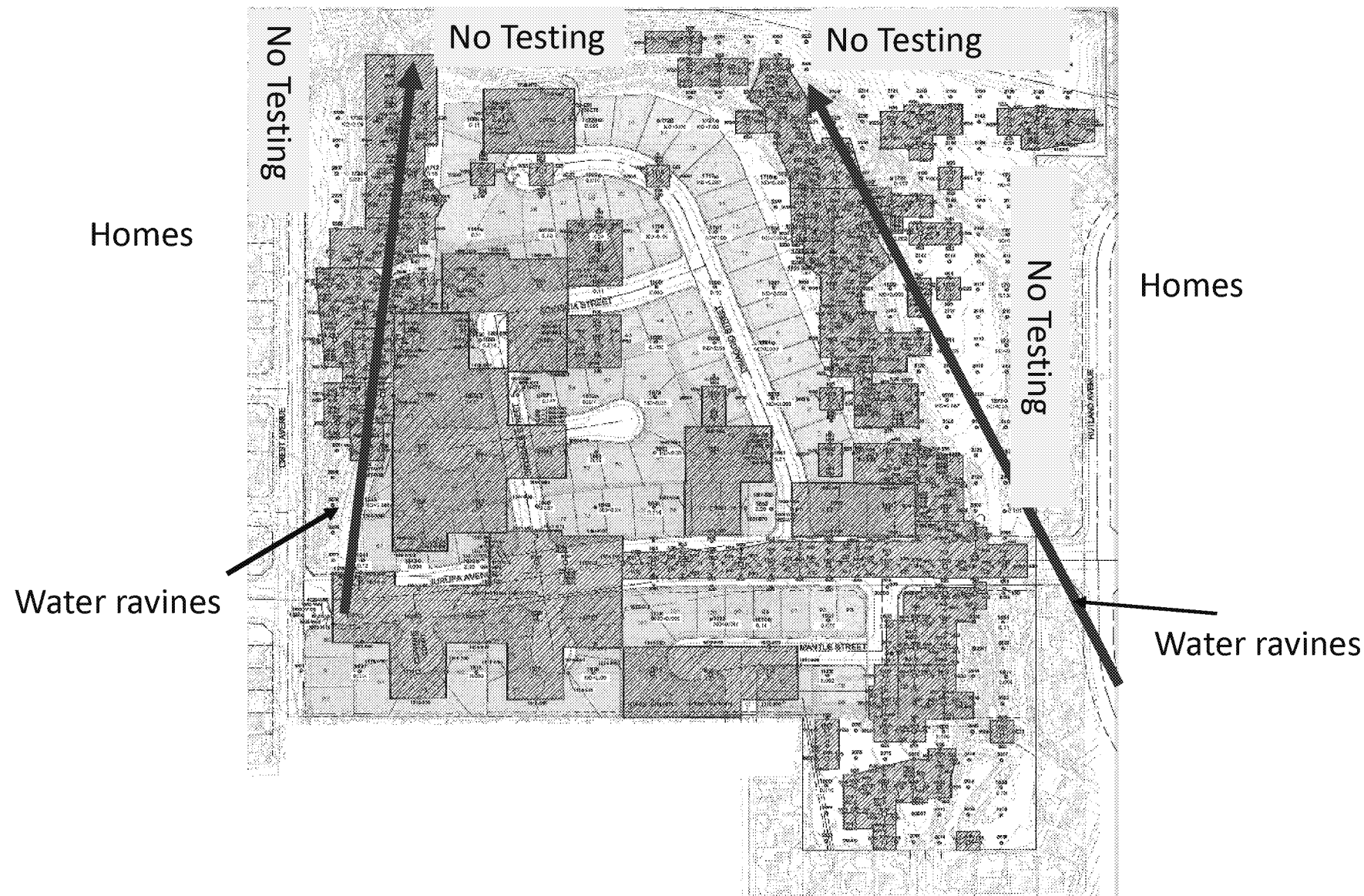
- Lower Action Level (7 mg/kg not 50 mg/kg)
- Industrial Hygienist on site with authority to shut down work
- Monitors around the site not just on two sides
- 24-hour monitoring, not just when work is taking place.
- Testing for chemicals as well as dust.

DUST MONITORING LOG  
COX PROPERTIES – AG PARK  
RIVERSIDE, CA

DATE	Wind Direction	UPWIND (µg/m³)				DOWNWIND (µg/m³)				Δ	GHAIR
		Tag	Time	Con	Speed	Tag	Time	Con	Speed		
10/23/13	S	51	0721	338.4	1.8	73	0726	152.9	1.0	185.5	FOG
	SE	51	0820	368.8	1.4	73	0825	141.9	0.9	226.9	FOG
	SE	51	0920	302.4	0.7	73	0925	115.7	1.4	186.7	FOG
	SE	51	1020	314.7	1.4	73	1025	123.8	0.5	190.9	FOG
	SE	51	1120	290.5	4.9	73	1125	130.7	4.5	159.8	FOG
	SE	51	1220	304.1	2.7	73	1225	139.3	2.4	164.8	FOG
	SE	51	1320	357.6	1.0	73	1325	162.9	2.9	194.7	FOG
	SE	51	1420	331.2	5.2	73	1425	131.0	4.3	200.2	FOG
	SE	51	1454	345.9	4.3	73	1500	154.3	5.0	191.6	FOG
10/24/13	SE	52	0725	410.4	1.1	76	0729	184.5	1.8	225.9	OTOD FOG
	SE	52	0820	374.1	1.0	76	0825	157.4	1.9	216.7	FOG
	SE	52	0920	278.4	3.4	76	0925	124.3	2.4	154.1	FOG
	SE	52	1020	272.9	3.1	76	1025	125.6	3.0	152.3	FOG
	SE	52	1120	317.5	3.3	76	1125	146.9	3.4	170.6	FOG
	SE	52	1220	329.1	1.9	76	1225	161.1	4.3	168	FOG
	SE	52	1322	366.2	2.5	76	1329	140.0	4.0	226.2	FOG
Highlighted readings are above the 7 mg/kg set as an action level where all work would stop. More than 52 days went by above this safe reading.											

Ag Park Site Recommendation 2:

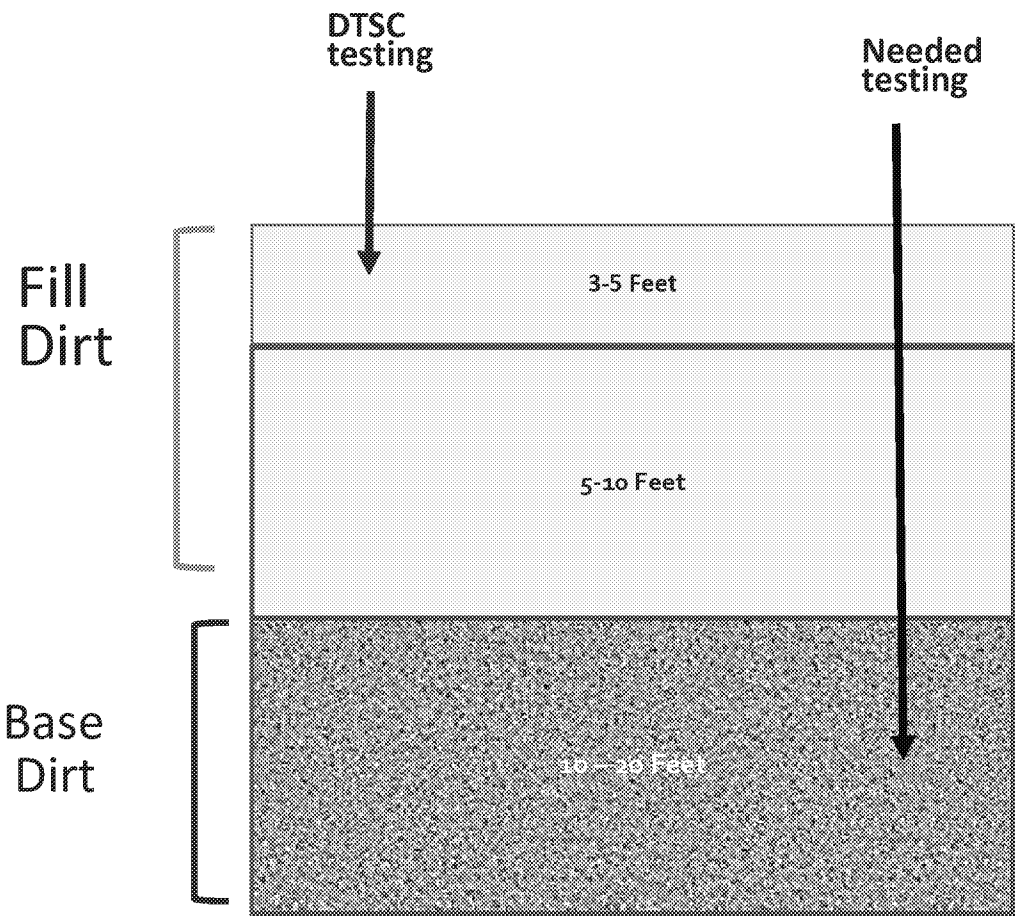
Inadequate testing and identification of all chemicals of concern (dioxin, furans, perchlorate, heavy metals etc.)



**Ag Park Site Recommendation 3:**

Inadequate testing to depth of soil (have only tested “shallow” - 3 feet - areas)

At the end of this all DTSC can accurately state that the site is cleaned down to 3 feet.





## Ag Park Site Recommendation 4:

Inadequate and protective clean up levels at the site; without consulting OEHHA. DTSC is using .22mg/kg while OEHHA has set 0.089mg/kg clean up level for PCBs in soil. Originally, the City of Riverside approached Riverside County Environmental Health to oversee the clean up but they wanted a clean up level to non-detect - at that point the City shopped around for another oversight agency and found DTSC which required a .22 mg/kg clean up level.

DTSC continues to make the statement that they are not experts on Health Risks...therefore CCAEJ requested that DTSC contact OEHHA which was ignored

- OEHHA's mission is to protect and enhance public health and the environment by scientific evaluation of risks posed by hazardous substances.
- The Office develops health-protective exposure levels for contaminants in air, water, and soil as guidance for regulatory agencies and the public
- Contaminated Site Risk Assessment
  - Providing consultation services to California's Regional Water Quality Control Boards and local governmental entities on health risks from exposure to hazardous materials at contaminated sites undergoing cleanup.
  - Developing soil and soil-gas values for screening assessments at contaminated sites.
  - Maintenance of a searchable online database of toxicity values developed or adopted by OEHHA.

## Ag Park Site Recommendation 5:

Inadequate requirements for public disclosure,

### Public Disclosure

At the very least, the trust deeds on the homes to be built upon this land must contain a restriction against planting gardens, trees, flower beds – anything that goes deeper than the testing and removal from the site including swimming pools !

In 2002, an additional disclosure law was passed that requires developers and real estate agents to disclose to home buyers near Defense Sites or Formally Used

Defense Site (FUDS)•

*"we're concerned that the cleanup plan focuses on PCB mitigation and neglects to address both the additional contaminants of concern and the groundwater."*

*"...who in their right mind would buy the homes? We would therefore not be interested in the project."*

Gresham/Savage Attorneys at Law for Tate Goss,  
President, Viridian Partners

**Ag Park Site Recommendation 6:**

No testing of residents' yards and homes. DTSC is "modeling" to see where they should test! We believe they should test homes adjacent to the site – period.

Comparisons between Fieldstone Property and Ag Park								
SITE	SIZE	CHEMICALS OF CONCERN	Homes near site	Year of discovery of site	Time to test Homes	Highest readings	Median household income	ETHNICITY
FIELDSTONE PROPERTY	42 ACRES	PCBs	1 SIDE	JUNE 2002	1 MONTH	3,220 PPM	\$81,389	78% WHITE
AG PARK	62 ACRES	PCBs	3 SIDES	JUNE 2003	13 YEARS AND STILL WAITING	4,930 PPM	\$47,476	75% LATINO



## Ag Park Site Recommendation 7:

### Legal Negligence

**Legal Define Negligence:** “Is a failure to exercise the care that a reasonably prudent person would exercise in a like circumstance, it involves harm cause by carelessness not intentional harm”

- DTSC issued a letter of No Further Action Required and Certificate of Completion, CLRRA Agreement, on April 1<sup>st</sup>, 2014
- Site was allegedly cleaned up at .22 mg/kg for PCBs
- Under public/political pressure DTSC with assistance from USEPA retested the site and determined that close to half of the property was still contaminated over the clean up level.

## **Ag Park is more than a 60 acre Browns field Project**

### **Other Significant Issues (Presented by former, DTSC, Branch Chief)**

- Applicant did not qualify under the Brownsfield statute! – Was this a Political/DTSC Budget?
  - Severe deficiency of legal knowledge in staff and management
  - DTSC does not follow public policy
- Dysfunction within DTSC missed the larger CERCLA project – Was this Political or institutional?
  - Lack of legal knowledge plus funding pressure.
  - Recommend General Fund tax revenue added to DTSC fee revenue
- It is a 1200+ acre site eligible for CERCLA with deep pocket RP's. (CAMP ANZA)
  - DTSC management failed to lead/develop staff to know the difference
- DTSC contracted with City and Developer to implement “Browns field “project.
  - This type of contract predisposes DTSC to cleanup certification before field work begins.
  - DTSC ignores public comment

- DTSC is dismissive toward the public.
  - DTSC's public participation process is window dressing for future legal defense of DTSC.
  - Staff do not justify validity of their technical responses. They do not cite sources , legal decisions, or published scientific research. It is all opinion.
- DTSC is an advocate for the Developer.
  - Contract drives DTSC to support objectives of the Developer, lowest cost decisions.
  - DTSC says they can only require the minimum of Air District permit requirements for dust control when the discussion is about preventing the spread of contamination to adjacent residential property
- DTSC decision to leave Persistent & Bioaccumulative contamination in place relies upon dilution in soil and water to solve the cleanup problem.
  - Dilution was prohibited by legislation. Cleanup must be Non Detect
  - OEHHA is better staffed to review the published science and establish cleanup levels for all Cal EPA departments.
  - DTSC decisions don't protect the environment or health.
  - Site mitigation projects need compliance or internal review for ensuring equal application of law and lawful objectives and methods are employed.